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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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Public Notice )

Common Carrier Bureau Seeks Comment on )  
California Public Utilities Commission Petition for )  
Delegation of Additional Authority Pertaining to Area )  
Code Relief and to NXX Code Conservation Measures )

NSD File No. L-98-136  
DA 99-928

Implementation of the Local Competition Provisions )  
of the Telecommunications Act of 1996 )

CC Docket No. 96-98

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COMMENTS OF THE PERSONAL  
COMMUNICATIONS INDUSTRY ASSOCIATION

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Dated: June 14, 1999

No. of Copies rec'd 014  
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Doc. No. 756580

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**COMMENTS OF THE PERSONAL  
COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),<sup>1</sup> by its attorneys, hereby respectfully submits its comments on the Commission's *Public Notice* in the above-captioned proceeding.<sup>2</sup> PCIA, as a major wireless trade association, has consistently supported a strong federal role in supervising a unified, nationwide numbering system that ensures that all carriers are provided with an adequate supply of telephone numbers. Because grant of the authority

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<sup>1</sup> PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

<sup>2</sup> Public Notice, *Common Carrier Bureau Seeks Comment on California Public Utilities Commission Petition for Additional Authority to Implement Number Conservation Measures*, NSD File No. L-98-136, DA 99-928 (May 14, 1999).

requested by the California petition will compromise this unified numbering scheme, and might discriminate against certain carriers, the Petition should be denied.

## **I. INTRODUCTION AND SUMMARY**

On April 23, 1999, the California Public Utilities Commission and the People of the State of California ("CPUC" or the "Petitioner") filed a petition with the Commission requesting additional authority to implement a variety of numbering conservation methods. The CPUC requested authority to: (1) implement mandatory thousands block pooling; (2) explore the use of individual telephone number ("ITN") pooling; (3) hear and address requests by individual carriers for assignment of codes outside the NXX rationing process; (4) employ certain number assignment standards including enforcement of "fill rates," number reclamation, utilization surveys, and code rationing; (5) order carriers to return unused NXX codes; and (6) order carriers to return unused or under utilized portions of NXX codes.<sup>3</sup> The Petitioner claims that such conservation measures are necessary due to the increasing demand for telephone numbers, which is leading to the rapid exhaust of California's Numbering Plan Areas ("NPAs").<sup>4</sup>

While the CPUC raises legitimate concerns about the costs associated with NPA exhaust, it is vital that the Commission continue to maintain federal control to ensure a unified system of numbering administration that does not discriminate against any class of carriers. Although some elements of California's proposal are similar to the other recent state requests for

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<sup>3</sup> California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation Measures (filed April 23, 1999) at 1-2 ("*CPUC Petition*").

<sup>4</sup> *CPUC Petition* at 2.

numbering authority that have been filed with the Commission,<sup>5</sup> there are still significant differences among these various plans that would require carriers to obtain numbering resources in different ways in these states. Moreover, Petitioner has requested authority to fashion a “California specific” solution to its existing number “crisis,” presumably from among the various conservation measures listed in its Petition.<sup>6</sup> As a result, carriers might be subject to inconsistent state-by-state requirements in the administration of numbering systems. Finally, it is vital that the Commission ensure that the proposed solutions do not discriminate against any segment of the industry. For example, some of the measures proposed by the CPUC—including number pooling—have the potential to discriminate against certain carriers because they rely upon the ability to implement local number portability (“LNP”).

PCIA firmly believes that the Commission must act to protect and preserve an essential element of the North American Numbering Plan (“NANP”)—its nationwide consistency. If, however, the FCC does decide to give the CPUC the option to deviate from the established procedures for assigning numbering resources, then it must require that these changes be implemented pursuant to nationwide standards. In addition, no state should be permitted to unfairly hinder any carrier’s ability to obtain numbering resources. Thus, any number conservation program that relies on LNP must provide non-LNP capable carriers access, on a non-discriminatory basis, to a source of numbers.

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<sup>5</sup> See, e.g., Massachusetts Department of Telecommunications and Energy’s Petition for Waiver of Section 52.19 To Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes (filed Feb. 19, 1999); New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures (filed Feb. 22, 1999).

<sup>6</sup> CPUC Petition at 4.

**II. WHILE THE CPUC RAISES A NUMBER OF VALID CONCERNS, THE COMMISSION SHOULD CONTINUE TO MAINTAIN FEDERAL CONTROL OVER A UNIFIED SYSTEM OF NUMBERING ADMINISTRATION IN THE UNITED STATES**

The California Public Utilities Commission raises a number of valid concerns regarding the rapidity with which NPAs are being exhausted. For instance, the CPUC anticipates that it “will be required to open 15 more NPAs by the end of 2002” due to the rate of consumption of numbers by carriers.<sup>7</sup> The CPUC points to the 190 certificated competitive local exchange carriers, 45 facilities-based cellular carriers and 11 PCS providers that all “need NXX codes so they can assign numbers to their customers.”<sup>8</sup> The creation of new area codes has raised the ire of the public in California, as evidenced by the following facts: (1) a member of the California Legislature proposed a bill that would have established a moratorium on the implementation of new area codes and (2) cities have filed protests with the CPUC about its efforts at administering NPA relief.<sup>9</sup>

While the problems cited by California are real, the Commission must take steps to ensure that the proposed number conservation measures do not compromise other, more important, aspects of the NANP. In particular, an individualized state-by-state approach will denigrate the unified nature of the national telecommunications infrastructure, contrary to the intent of Congress in amending the Communications Act in 1996.<sup>10</sup>

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<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 2-3.

<sup>9</sup> *Id.* at 3-4.

<sup>10</sup> See Numbering Resource Optimization, CC Docket No. 99-200, *Notice of Proposed Rulemaking*, FCC 99-122 (rel. June 2, 1999) (addressing comprehensive, nationwide solutions to the problem of telephone number exhaust).

In the 1996 Telecommunications Act, Congress gave the Commission “exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.”<sup>11</sup> The Commission noted that Congress acted in this manner in recognition that “ensuring fair and impartial access to numbering resources is a critical component of encouraging a robustly competitive telecommunications market in the United States.”<sup>12</sup> PCIA has consistently argued that the Commission should exercise this grant of jurisdiction because a national numbering policy is essential to the efficient provision of telecommunications service.<sup>13</sup> In fact, a nationwide policy is particularly important to the wireless market because such carriers operate without regard to state boundaries.

The Commission, in its *Pennsylvania Order*, explained why national numbering policies are necessary:

A nationwide, uniform system of numbering is essential to the efficient delivery of telecommunications services in the United States ... Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes

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<sup>11</sup> 47 U.S.C. § 251(e)(1).

<sup>12</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 19392, 19508 (1996) (“*Local Competition Second Report and Order*”), vacated in part sub nom. *California v. FCC*, 124 F.3d 934 (8th Cir. 1997), reversed in part sub nom., *AT&T Corp. v. Iowa Utilities Bd.*, 119 S. Ct. 721 (1999).

<sup>13</sup> See, e.g., Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes*, NSD File No. L-99-17, DA 99-460 (filed April 5, 1999); Comments of PCIA on Public Notice, *Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures* NSD File No. L-99-21, DA 99-462 (filed April 5, 1999); Comments of PCIA on Public Notice: *Common Carrier Bureau Seeks Comment On North American Numbering Council Letter Seeking Clarification of the Term ‘Technology Neutral,’* DA 97-2234 (filed Oct. 29, 1997).

for number conservation and area code relief. Such inconsistency could interfere with, or even prevent, the routing of calls in the United States. The lack of uniformity also could hamper the industry's efforts to forecast and plan properly for exhaust of the North American Numbering Plan, and therefore ultimately could accelerate unnecessarily the introduction of a new nationwide numbering plan. Introduction of a new plan would mean costly network upgrades to accommodate a new dialing scheme that would be confusing to consumers.<sup>14</sup>

Therefore, the Commission admonished all parties to “work together to bring about as quickly as possible national methods to conserve and promote efficient use of numbers *that do not undermine that uniform system of numbering.*”<sup>15</sup>

Against this background, California has proposed one conservation method—improved methodologies for collecting data on number usage—which, if implemented subject to national guidelines, would serve the public interest. PCIA, in its comments on the *NANC Report*, also has endorsed certain conservation measures, including some proposed by the Petitioner, such as: (1) Extended Local Calling Areas (“ELCAs”); (2) Inconsistent Rate Centers (“IRCs”); and (3) elimination of certain protected central office codes.<sup>16</sup> PCIA supports these specific methods of managing numbering resources because they optimize the utilization of telephone numbers without discriminating against any particular segment of the telecommunications industry.

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<sup>14</sup> *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, NSD File No. L-97-42, (Memorandum Opinion and Order and Order on Reconsideration), FCC 98-224, at ¶ 21 (rel. Sept. 28, 1998) (“*Pennsylvania Order*”).

<sup>15</sup> *Pennsylvania Order*, ¶ 21.

<sup>16</sup> See PCIA Comments on Public Notice, *Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures*, NSD File No. L-98-134 (filed Dec. 21, 1998).



While PCIA supports the use of these number conservation methods, the Commission should not abandon its role as the Congressionally-sanctioned arbiter of the nationwide numbering system. Thus, in the event that the Commission allows the states to act, it must develop some set of national standards or unifying elements so that carriers do not eventually face a myriad of different numbering regulations and standards. As the *Pennsylvania Order* noted, such a Balkanization of the nation's numbering policies will interfere with the routing of calls and will add to the cost of doing business for all carriers operating in different states.<sup>17</sup>

**III. THE LNP-BASED CONSERVATION METHODS PROPOSED BY THE PETITIONERS, IF PERMITTED, MUST BE IMPLEMENTED PURSUANT TO NATIONWIDE STANDARDS, AND NON-LNP CAPABLE CARRIERS MUST HAVE ALTERNATIVE SOURCES OF NUMBERS**

As noted above, national standards for the allocation of numbering resources are essential to maintaining an efficient and competitively neutral telecommunications industry. Further, telephone numbers are one of the essential elements of a well functioning telecommunications marketplace, without which no carrier can provide service to its customers. Full and fair access to telephone numbers is thus critical to the ability of carriers to satisfy consumers and to serve their customers' needs. This is particularly true in the wireless industry, where there is substantial continued demand for new telephone numbers, and new carriers must compete against incumbent providers with already large customer bases. Without non-discriminatory access to telephone numbers, wireless carriers will be handicapped in their ability to contract with new subscribers and service the needs of existing subscribers. Under such circumstances,

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<sup>17</sup> *Pennsylvania Order*, ¶ 21.

CMRS providers will quickly feel the adverse economic effects of inadequate access to numbering resources and customers will lose a measure of competition within the marketplace.

The Commission has recognized the competitive importance of the unfettered availability of telephone numbers. Specifically, the *Pennsylvania Order* mandates that NPA relief plans must “facilitate entry into the telecommunications marketplace by making numbering resources available on an efficient and timely basis to carriers.”<sup>18</sup> The *Pennsylvania Order* is similarly direct when it comes to prohibiting discrimination against wireless carriers in the allocation of numbering resources by limiting the availability of new numbers to LNP-capable carriers: “[T]he use of number pooling and transparent overlays unduly disfavored wireless and non-[LNP] capable carriers because it did not provide adequate assurances that those carriers would have access to numbering resources.”<sup>19</sup>

Thus, the Commission’s precedent clearly states that any numbering optimization measures must ensure that all carriers, regardless of the technology they use, have equal and unfettered access to the telephone numbers they need to meet the expanding needs of new and existing subscribers. Against this background, if the Commission chooses to implement an optimization measure that relies on LNP-based methods, it must ensure that non-LNP capable carriers have access to alternative sources of telephone numbers. A large number of carriers—both wireline and wireless—are not currently required to be LNP-capable, and may not ever be

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<sup>18</sup> *Pennsylvania Order*, ¶ 37; see also *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, 10 FCC Rcd 4596, ¶ 19 (1995) (“The ready availability, and use, of numbering resources by communications services providers is essential if the public is to receive the communications services it wants and needs.”); *Local Competition Second Report and Order*, ¶ 291 (“[F]ederal numbering guidelines [are] designed to ensure the fair and timely availability of numbering resources to all telecommunications carriers.”).

<sup>19</sup> *Pennsylvania Order*, ¶ 40.

required to implement this capability.<sup>20</sup> These carriers obviously must be able to obtain numbers on a comparable basis to other service providers.

Even beyond these competitive concerns, however, PCIA has a number of practical concerns involving LNP-based approaches, including the Petitioner's thousands block pooling proposal. Preliminarily, some LNP-based methods might not conserve as many telephone numbers as their proponents allege. As noted above, significant numbers of carriers are currently not LNP-capable. The number of LNP-exempt carriers is particularly great in the areas of the country where thousands block fill rates are uniformly low, such as rural areas. Therefore, LNP-based solutions cannot be used with any efficacy in these pockets of inefficient number usage.

Also, as pointed out in the *NANC Report*,<sup>21</sup> unassigned number porting has a number of specific practical disadvantages. First, UNP seems to encourage the "mining" of numbers, as one carrier can take another carrier's desirable numbers without the other carrier's consent. Second, UNP will punish those service providers that have efficiently managed their numbering resources, while those carriers that have not done so will be able to continue their

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<sup>20</sup> Paging companies will not be required to implement LNP at any time and broadband CMRS carriers are not required to implement local number portability in the top 100 MSAs until November 24, 2002. *CTIA's Petition for Forbearance from Commercial Mobile Radio Service Number Portability Obligations* (Memorandum Opinion and Order), WT Docket No. 98-226, CC Docket No. 95-116 (Feb. 9, 1999).

In addition, LECs are only required to implement LNP upon a *bona fide* request from another carrier, and LECs "with fewer than 2 percent of the Nation's subscriber lines" can petition a state commission to modify or suspend the number portability requirements. *Telephone Number Portability* (Third Report and Order), 13 FCC Rcd 16090, ¶ 17 & n.63 (1998) (quoting 47 U.S.C. § 251(f)(2)).

<sup>21</sup> *Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods*, 129-30 (Oct. 21, 1998) ("*NANC Report*").

mismanagement and still get telephone numbers, even in a jeopardy situation. Third, because the effectiveness of unassigned number porting is based directly on the number of service providers participating in the scheme, if only a limited number of providers are able to take part in any given area, this method will only have a minimal impact on number exhaust.

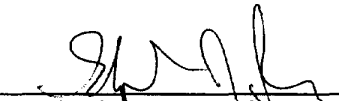
#### IV. CONCLUSION

PCIA endorses the efforts to ensure the more efficient allocation of numbering resources within the North American Numbering Plan, with the goal of preventing premature and unnecessary NPA exhaust. Such conservation measures will help to ensure that all carriers have an adequate supply of telephone numbers, which will encourage competition in the telecommunications industry. In its efforts to optimize number utilization, however, the FCC must make sure that state plans to conserve numbers do not upset the unified structure of the NANP and that those measures are fair to all segments of the telecommunications industry.

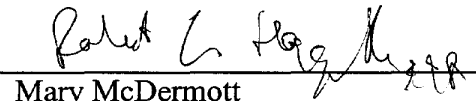
Respectfully submitted,

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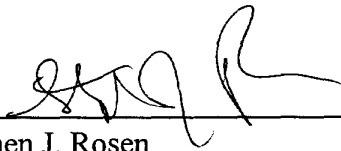
  
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June 14, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of June, 1999, I caused copies of the foregoing  
Comments of the Personal Communications Industry Association to be mailed via first-class  
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